

*REMARKS*

Reconsideration of the referenced application is respectfully requested in view of the foregoing amendments and the following remarks.

The claims listing above reflects Examiner's requirement to restrict the claims and Applicant's election of Group I, claims 1-16. New independent claim 53 has been added to the application and is submitted for consideration.

Examiner has objected to all the claims as being anticipated or obvious, contrary to 35 U.S.C. 102 and 103 respectively, and has cited the following references in support of his position:

U.S. Patent No. 6,351,663 to Flower et al.

U.S. Patent No. 5,951,980 to Collen

U.S. Patent No. 5,375,603 to Feiler

U.S. Patent No. 6,280,386 to Alfano et al.

U.S. Patent No. 5,927,284 to Borst et al.

Applicant has amended the claims to more clearly define the invention. All claims in the application are now dependent on new claim 53. Claim 53 now recites the additional limitation that the angiography is to be performed during an invasive procedure to visualize a blood vessel that is exposed by that procedure. It is submitted that new claim 53 distinguishes over the cited art for the following reasons.

The use of fluorescent angiography during an invasive procedure to view blood vessels exposed by said procedure has unexpected advantages. Traditionally, X-Rays are used to visualize blood vessels in combination with a contrast dye. Imaging using X-Rays requires cumbersome devices that are unsuitable for intra-operative applications. Further, X-Rays do not pass through a conventional operating table. In contrast, fluorescent angiography is particularly suited for visualizing blood vessels during an invasive procedure for several reasons. First, devices used for fluorescent angiography are less cumbersome than conventional X-Rays thus making it easier to fit into an operating room. Second, fluorescent angiography circumvents the problem of operating table penetration that is encountered when using X-Rays since the illumination source and the instrument for image capture are on the same side of the patient. Third, it's quickness and ease of use allows a surgeon to visualize

In re Appln. of DOCHERTY et al.  
Application No. 09/744,034

Respectfully submitted,



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Date: May 24, 2004

Amendment or ROA - Regular (Revised 7/29/03)



A DOCPHOENIX

FOLLOW-ON DOCUMENT INDEX SHEET

## INCOMING

\_\_\_\_ ACPA \_\_\_\_  
Continuing Prosecution Application

\_\_\_\_ AP.B \_\_\_\_  
Appeal Brief

\_\_\_\_ C680 \_\_\_\_  
Request for Corrected Notice/Allowance

\_\_\_\_ C.AD \_\_\_\_  
Change of Address

\_\_\_\_ CFILE \_\_\_\_  
Request for Corrected Filing Receipt

\_\_\_\_ COCIN \_\_\_\_  
Papers filed re Certificate of Corrections

\_\_\_\_ CRFD \_\_\_\_  
Computer Readable Form Defective

\_\_\_\_ CRFE \_\_\_\_  
Computer Readable Form 'ENTERED'

\_\_\_\_ EABN \_\_\_\_  
Request for Express Abandonment

\_\_\_\_ ELC. \_\_\_\_  
Response to Election/Restriction

\_\_\_\_ IFEE \_\_\_\_  
Issue Fee Transmittal PTOL 85 B

\_\_\_\_ IRFND \_\_\_\_  
Refund Request

\_\_\_\_ L\_RIN \_\_\_\_  
Any Incoming to L&R

\_\_\_\_ N417 \_\_\_\_  
Copy of EFS Receipt Acknowledgement

\_\_\_\_ N/AP \_\_\_\_  
Notice of Appeal

\_\_\_\_ PA.. \_\_\_\_  
Change in Power of Attorney

\_\_\_\_ PC/I \_\_\_\_  
Power to Make Copies or to Inspect

\_\_\_\_ PEF. \_\_\_\_  
Pre-Exam Formalities Response

\_\_\_\_ PEFRRREISS \_\_\_\_  
Pre-Exam Formalities Reissue Response

\_\_\_\_ PEFRRSEQ \_\_\_\_  
Pre-Exam Formalities Sequence Reply

## INCOMING

\_\_\_\_ LET. \_\_\_\_  
Misc. Incoming Letter

\_\_\_\_ IMIS \_\_\_\_  
Miscellaneous Internal Document

\_\_\_\_ PGEA \_\_\_\_  
Req Express Aband to avoid Publication

\_\_\_\_ PGA9 \_\_\_\_  
Req for Corrected Pat App Publication

\_\_\_\_ PGREF \_\_\_\_  
Req for Refund of Publication Fee Paid

\_\_\_\_ PROTEST \_\_\_\_  
Protest Documents Filed by 3<sup>rd</sup> Party

\_\_\_\_ PROTRANS \_\_\_\_  
Translation of Provisional in Nonprovisional

\_\_\_\_ REM \_\_\_\_  
Applicant Remarks in Amendment

\_\_\_\_ RESC \_\_\_\_  
Rescind Non-Publication Request

\_\_\_\_ ROCKET \_\_\_\_  
Request for Design Processing

\_\_\_\_ XT/ \_\_\_\_  
Extension of Time filed separate

## APPL PARTS

\_\_\_\_ 371P \_\_\_\_  
PCT Papers in a 371 Application

\_\_\_\_ A... \_\_\_\_  
Amendment Including Elections

\_\_\_\_ A.NE \_\_\_\_  
After Final Amendment

\_\_\_\_ A.PE \_\_\_\_  
Preliminary Amendment

\_\_\_\_ ABST \_\_\_\_  
Abstract

\_\_\_\_ ADS \_\_\_\_  
Application Data Sheet

\_\_\_\_ AF/D \_\_\_\_  
Affidavit or Exhibit Received

\_\_\_\_ APPENDIX \_\_\_\_  
Appendix

## APPL PARTS

\_\_\_\_ ARTIFACT \_\_\_\_  
Artifact

\_\_\_\_ CLM \_\_\_\_  
Claim

\_\_\_\_ COMPUTER \_\_\_\_  
Computer Program Listing

\_\_\_\_ CRFL \_\_\_\_  
CRF Transfer Request

\_\_\_\_ CRFS \_\_\_\_  
Computer Readable Form Statement

\_\_\_\_ DIST \_\_\_\_  
Terminal Disclaimer Filed

\_\_\_\_ DRW \_\_\_\_  
Drawings

\_\_\_\_ FOR \_\_\_\_  
Foreign Reference

\_\_\_\_ FRPR \_\_\_\_  
Foreign Priority Papers

\_\_\_\_ IDS \_\_\_\_  
IDS Including 1449

\_\_\_\_ NPL \_\_\_\_  
Non-Patent Literature

\_\_\_\_ OATH \_\_\_\_  
Oath or Declaration

\_\_\_\_ PET. \_\_\_\_  
Petition

\_\_\_\_ RUSH \_\_\_\_  
OPUBS Printer Query

\_\_\_\_ SEQLIST \_\_\_\_  
Sequence Listing

\_\_\_\_ SPEC \_\_\_\_  
Specification

\_\_\_\_ SPEC NO \_\_\_\_  
Specification Not in English

01/20/04